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# Tafoya case and unleashing the CIA

By Seymour Wishman

**A** criminal lawyer recently attempted to convince a Colorado jury that his client, a former Green Beret, was on CIA assignment when he shot a Libyan student. The CIA denied having made the assignment.

The defendant, Eugene Tafoya, was convicted of assault, and afterwards members of the jury told reporters they simply could not believe that the CIA could have engaged Tafoya for such a project and then abandoned him so carelessly.

Either the CIA really was involved, or Tafoya's lawyer had made a cynical decision to present the jury with a bald lie. Both alternatives are appalling. The attorney for the defense obviously thought that his unseemly scenario — contrived or not — was worth betting his client's life on.

He had to believe, in other words, that the very integrity of the agency was open to question. Prior to the Vietnam War, it was almost inconceivable that a defendant, without hard evidence, would try to convince a jury of such treachery. But charges which were dismissed years ago as wild, paranoid suspicions have since proven quite credible. A number of apparent lunacies over the past decade turned out not to be the creations of some slapstick crazed comedian but the products of our own intelligence community. The people who brought us the plan to poison Fidel Castro's beard or employed spies in ill-fitting red wigs indeed might be capable of anything.

Up until now, the Federal Bureau of Investigation was expected to lead the fight against foreign plotting on our soil. With the president's new order, it is obvious that the FBI with all its resources just wasn't enough for the kind of extreme security measures that Washington must now be contemplating.

It is only a matter of time before some new, preposterous scandal involving the CIA will emerge out of the Reagan CIA order. The result will be further erosion of confidence in our government, making it easier to persuade a jury that some guilty killer was only innocently doing his job as a civil service hit man.

Had President Reagan's new policy been in force at the time of Tafoya's trial, his lawyer could have pointed to the covert operations provision and argued:

"I put it to you, ladies and gentlemen of the jury, that the activities of the Libyan students were legitimately the concern of the CIA under the terms of this executive order. It is undeniable that Tafoya was hired by someone — and isn't it just as plausible that he was hired by the CIA as by the Libyan government?"

"The CIA says, 'No, Tafoya wasn't hired by us to shoot anyone.' Of course they would deny it. They would have to deny it. But President Reagan himself instructed the CIA to carry out clandestine activities right here in places like Colorado. Can you members of the jury be convinced beyond a reasonable doubt that the defendant Eugene Tafoya, a former Green Beret, is lying when he says he was merely fulfilling President Reagan's instructions?"

"Can you be sure beyond a reasonable doubt that the CIA is telling the truth when it denies what it has to deny?"

Although President Reagan's new executive order came too late to help Tafoya, it could well be helpful for the next killer who claims that "the CIA made me do it." And worse yet, he could be telling the truth.

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